

Center on Race, Poverty, & the Environment

450 GEARY STREET, Suite 500
SAN FRANCISCO, CA 94102

415/346-4179 ☎ fax 415/346-8723

Ralph Santiago Abascal (1934-1997)
Director 1990-1997

Luke W. Cole
Director

J. Mijin Cha
Caroline Farrell
Brent Newell
Staff Attorneys

Joe Morales
Community Organizer

June 30, 2004

Tam Doduc
Malinda Hall
Cal/EPA
Environmental Justice Action Plan Stakeholder Workshop
1001 I Street
Sacramento, CA

Re: Comments on Cal/EPA Environmental Justice Action Plan

Dear Ms. Doduc and Ms. Hall:

The Center on Race, Poverty and the Environment (CRPE) and the Pesticide and Farmworker Safety Project of the California Rural Legal Assistance Foundation submit these comments on Cal/EPA's Environmental Justice Action Plan. Several of the community groups we work with are involved in local struggles against environmental issues facing low-income communities of color in the Central Valley. The San Joaquin Valley is the third most polluted air basin in the country and was recently reclassified by EPA as an Aextreme 1-hour ozone non attainment area.¹ Residents combat a host of issues, including poor air quality, pesticide drift, poor water quality and infrastructure problems as well as an influx of polluting industries such as dairies, toxic waste dumps and ethanol plants. These problems plague California's other rural areas as well.

Salinas and Fresno are two rural Central Valley communities included in the Sierra Club's Latino Communities at Risk Report, released June 29, 2004. In Fresno, Aintense agricultural activity with massive pesticide use, heavy traffic and pollution from oil wells has turned the Valley into a cauldron of toxic gases, especially in the summer when temperatures frequently exceed 100 [degrees].²

These comments address the priorities set forth in Cal/EPA's Environmental Justice Action Plan. We hope that these comments will be responded to and the concerns addressed in the final EJ

¹<http://www.epa.gov/fedrgstr/EPA-AIR/2004/February/Day-23/a3823.htm>

²<http://www.sierraclub.org/comunidades/ingles/>

Action Plan.

Priority 1: Provide Guidance on Cal/EPA Precautionary Applications

We strongly support the application of the Precautionary Principle in all of Cal/EPA's environmental programs. When risk assessments are made, it is important that a lack of scientific certainty as to possible environmental or health impacts should not be a barrier to precautionary applications. The precautionary principle should be applied not only to initial rule makings or permit decisions, but should also infuse all later assessments as to whether the permits or rules are achieving intended goals.

To prevent new EJ problems, Cal/EPA should incorporate an alternatives assessment, including the Ano actions alternative, into the process of evaluating new permits.³

Priority 2: Conduct Health Impacts Reduction Plan (CHIRP) Pilot Projects and Develop Guidance on Cumulative Impacts Analysis

Any *objective* definition of cumulative health impacts must consider, among other factors: (1) already existing health issues in the affected community, including health problems not directly caused by pollution, but which, when coupled with the added effects of pollution contribute to an overall deterioration in the quality of life; (2) the impacts of exposure to multiple hazardous materials release sites in the surrounding area;⁴ (3) any possible health hazards associated with long-term exposure to low-level (permissible) emissions of hazardous materials. The effects of long-term exposure are hard to quantify but, for that same reason, should not be ignored in any calculation of cumulative health impacts.

When developing strategies for reduction of cumulative health impacts, Cal/EPA should direct serious attention to ways in which industry can be encouraged to develop alternate methods of production X A better than best X which would allow them to refrain from generating hazardous materials. Environmental legislation and regulation have the ability to be technology forcing, yet [d]espite the enactment of certain laws that are designed to curb the use and release of hazardous materials, no laws preclude companies or individuals from generating hazardous materials.⁵ A new

³Martha Matsuoka, *Building Healthy Communities From the Ground Up: Environmental Justice in California*. Asian Pacific Environmental Network, et al., 2004.

⁴Joel Thomas Boer & James L. Sadd, *In Whose Back Yard? The Demography of Populations Proximate to Hazardous Waste Facilities in Los Angeles County*, 5 ENVTL. L. NEWS, Spring 1996. Sadd and Boer found that certain south central Los Angeles community residents live within a *one*-mile radius of Asix or seven hazardous waste sites. Other studies show that residents of San Francisco's Bayview-Hunter's Point are exposed to over 280 sources of toxins. Pesticide use and emissions from concentrated animal feeding operations in the San Joaquin valley are linked to detrimental public health and environmental impacts.

⁵Dominique R. Shelton, *The Prevalent Exposure of Low Income and Minority Communities to Hazardous Materials: The Problem and How to Fix it*. Beverly Hills Bar Association Journal, Summer/Fall 1997.

approach based on pollution prevention is especially important in the Central Valley where much pollution is created by the agriculture industry which has so far managed to escape meaningful regulation due to non-point source discharge and fugitive emissions.

Any studies of community health should involve residents in all phases of the study, including study design implementation and evaluation. Community residents are the experts as to their own day-to-day living conditions and health threats in their communities. The inclusion of community residents means that they will become aware of the health issues that they are facing and be educated on how to protect their health. This puts power back into the hands of affected communities and gives them the tools they need to be effective.

Priority 3: Improve Tools for Public Participation, Community Capacity Building, and Communication

To improve community participation and capacity, it is important to target the youth. Young people must be educated about the issues facing their community so that affected communities will be greater empowered to formulate new solutions and promote community awareness.⁶

Cal/EPA online materials should be available in every language spoken prevalently in affected areas. There should also be non-internet sources of information made available in rural areas where residents do not have access to the Internet.

The most direct manner to solicit community participation and communication is through outreach programs where Cal/EPA conducts community meetings. These meetings should create opportunities for meaningful dialogue between community residents and Cal/EPA.

Priority 4: Integrate EJ into Other Components of the Environmental Action Plan

In the focus on children's health, projects should be directed toward increasing environmental protections, not just along freeways, but especially in areas surrounding schools as children are more susceptible to harm from environmental exposures.⁷

Research conducted in the United Kingdom indicates that the Attitude of the local community is important in determining the level of priority attached to the redevelopment of a Brownfield site.⁸ As with every aspect of the process, community involvement is key to the efficacy of environmental justice programs. Brownfield cleanup should be conducted with the aim of improving the appearance of the community in addition to improving health and safety.

A large part of the problem with the environment in urban low-income communities of color

⁶*Ibid.*

⁷ *Building Healthy Communities from the Ground Up* at p. 19.

⁸<http://www.jrf.org.uk/knowledge/findings/housing/551.asp>.

is that it is largely ignored for redevelopment. Instituting infill incentive programs helps to make infill development attractive and feasible, Ahelping to catalyze revitalization, boost jobs, purchasing power and generate tax dollars for local governments.⁹ Challenges associated with infill include Athe small, scattered nature of many infill parcels, complex title issues, outdated infrastructure serving the infill site, and environmental contamination.¹⁰

The bottom line is that the economy and political clout of the affected area must be revitalized and strengthened so that the communities will have a meaningful voice in decisions, which affect their lives, including environmental decisions. Environmental justice is Ainextricably linked with economic justice.¹¹ Communities of color should not be forced to bear the detrimental effects of disproportionate exposure to hazardous materials simply because they might have economic incentives to do so.

Cal/EPA can work with local government and nonprofit agencies to develop target areas: specifically, much attention should be directed toward the revival of the most severely impacted urban areas such as Watts in Los Angeles, Bayview/Hunter's Point in San Francisco and many rural areas in the San Joaquin Valley. Redevelopment dollars need to be directed to these areas.

In urban areas, A smart growth principles emphasizing the creation of integrated, multi-use districts that blend housing, services, recreation and jobs should be utilized. Currently unused land can be put to use for the creation of new community assets such as childcare centers, arts districts, and shopping areas. This Aremoves the blight and crime associated with vacant and abandoned properties.¹²

In the Central Valley where the population is expected to triple by 2040, smart growth must also be adopted. Low-density development, or Asprawl, creates increased automobile use and consumes farmland. In order to prevent continuing decline in already impaired air and water quality, Cal/EPA should also provide infill incentives to developers who curb sprawl through transit-friendly development where residential areas are located close by to community resources.

⁹ Equitable Development Toolkit: Beyond Gentrification
<http://www.policylink.org/EquitableDevelopment/>.

¹⁰ *Ibid.*

¹¹ *Building Healthy Communities from the Ground Up* at 17.

¹² <http://www.policylink.org/EquitableDevelopment/>

A major EJ issue is equitable siting of hazardous materials release sites. Cal/EPA should adopt regulations dealing with and rectifying major problems related to siting. Regulations should prevent new polluters from moving into neighborhoods where a certain threshold of pollution capacity has already been exceeded. Municipalities should be forced to confront zoning laws, which have adverse effects on impacted communities. In California, the siting of hazardous materials release sites is ultimately an issue of local control. Any local community can pass a prohibitory ordinance.

Cal/EPA should also adopt regulations to ensure that mitigation efforts are standard from one community to the next. Otherwise, industries located in low-income minority areas can get away with doing less to stop pollution.

Priority 5: Ensure Meaningful Public Participation in Implementing EJ Action Plan

A forum must be provided in which community groups and residents of affected communities may present the issues they feel are in need of attention. And there must be a mechanism, which will enable this participation and voice to have direct impact on Cal/EPA EJ policy and action. The mere opportunity to participate without an accompanying ability to have critical influence on the outcome is not enough.

There should be a strong focus on awareness and education. Community outreach is key. Community members must be informed about problems facing their communities and how to fight back. In addition, Cal/EPA should direct much attention to educating industry about alternative/less polluting methods of production and providing economic incentives for facilities that voluntarily cease or substantially decrease the amount of pollution they generate and release.

Conclusion

Achieving environmental justice in California means that the environmental, economic, social and overall health of our communities B and therefore our state B is strengthened. Cal/EPA's EJ Action Plan embodies a solid approach to achieving the EJ goal. It is our hope that the issues addressed in these comments will be fully addressed in the final Cal/EPA Environmental Justice Action Plan.

Sincerely,

Marybelle Nzegwu
Caroline Farrell